

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Dennis DeJoode,
Petitioner-Appellants,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1316
Parcel No. 080/07804-000-000

On October 13, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Dennis DeJoode, requested a hearing and submitted evidence in support of his petition. He was self-represented. The Board of Review designated Assistant County Attorney Anastasia Hurn as its legal representative. It also submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Dennis DeJoode, owner of property located at 1908 23rd Street , Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one-story dwelling having 838 total square feet of living area and a full unfinished basement. The main dwelling was built in 1920 and has a 5+10 quality grade. The dwelling is situated on a 0.122 acre site.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$44,300, representing \$7600 in land value and \$36,700 in improvement value.

DeJoode protested to the Board of Review on the grounds that the property assessment was not equitable compared to the assessments of like properties in the taxing jurisdiction under Iowa Code 441.37(1)(a); was assessed for more than authorized by law under section 441.37(1)(b); and there was an error in the assessment under section 441.37(1)(d). The specific error he claimed was essentially that the property was over-assessed. He claimed that \$42,300 was the actual value and a fair assessment of the property. He did not break the total value into land or improvement allocations.

The Board of Review appraiser analysis concluded the property was assessed at its fair market value. The appraiser recommended the assessment remain unchanged, and the Board of Review denied the protest.

DeJoode filed his appeal with this Board and claimed the following grounds: 1) that there was an error; and 2) that there has been a downward change in the value since the last assessment under sections 441.37(1) and 441.35(3). The error he claimed was essentially that the subject property is over-assessed, a ground which was pled before the Board of Review. DeJoode also challenged the assessment on the basis that there had been a downward change in value of the property. While this ground was not pled before the Board of Review, in a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider either error or downward change as separate claims and consider only the claim of over-assessment. DeJoode seeks an assessed value of \$32,300, representing \$7200 in land value and \$35,100 in building value.

DeJoode testified the Martin Luther King Parkway neighborhood, where the subject property is located, is in disrepair with a prevalence of run-down, boarded-up, abandoned, and foreclosure properties. DeJoode questions the 4% to 4 1/2% increase in assessment in this area when he observes substantial decline in area conditions since the last reassessment. He describes deficiencies in the

subject property including its below normal condition, wet basement, no recent improvements, and the size of the property.

Michael Swaim of Swaim Appraisal Services in West Des Moines completed an appraisal of the property and testified on behalf of the Board of Review. He inspected the interior and exterior of the property. Swaim completed the sales approach to valuation using four comparable sales within a distance of less than 0.4 miles of the subject property. The sale prices of the comparables ranged from \$39,900 to \$59,900. Swaim made adjustment for differences between the comparable properties to the subject. Net adjustments ranged from 0% to 19.3%. Adjusted sale prices ranged from \$39,900 to \$53,900, or \$45.77 to \$68.05 per square foot. The subject property is assessed at \$52.86 per square foot. Swaim's estimate of value using the sales approach was \$48,000, as of January 1, 2009.

Because the property is a residential rental, Swaim also completed an income approach to valuation using his estimated \$550 monthly market rent and a gross rent multiplier of 80 to arrive a value of \$44,000. The subject property rents for \$400 monthly, and Swaim indicates the current rent "appears to be well below market rent." Swaim's final estimate of value, considering both the income and sales approaches, was \$47,000, as of January 1, 2009. The subject property is assessed at \$44,300, below Swaim's opinion of value.

Reviewing all the evidence, we find the preponderance of evidence does not support DeJoode's contention the subject property is assessed for more than authorized by law. We find the Swaim appraisal provides credible evidence of the fair market value of the subject property and supports the January 1, 2009, assessment.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

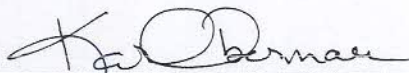
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

DeJoode failed to prove by a preponderance of evidence that the subject property is assessed for more than authorized by law. To the contrary, the Swaim appraisal supports the assessment as accurately reflecting the property's fair market value.

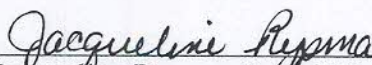
Viewing the evidence as a whole, we determine that substantial evidence was lacking to support DeJoode's claim the property was assessed for more than authorized by law as of January 1, 2009. Therefore, we affirm the DeJoode property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$44,300, representing \$7600 in land value and \$36,700 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Polk County Board of Review is affirmed.

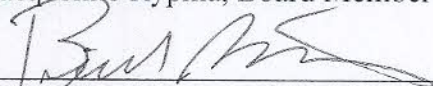
Dated this 14 day of December 2010.



Karen Oberman, Presiding Officer



Jacqueline Rypma, Board Member



Richard Stradley, Board Member

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 12-14, 2010

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Signature 